

DETAILED ACTION

1. Applicant's amendment dated November 13, 2007 is acknowledged. Claims 5-12 are canceled. Claims 3 and 4 are amended. Applicant's amendment has overcome objection to claim 3 and the rejection of claims 3 and 4 under 112, second paragraph and the objection and rejection are withdrawn. Claims 1-4 are currently pending and examined on the merits.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tel (US 6,565,002) in view of Butland et al. (US 6,030,657).

Tel teaches of a method for identifying one or more objects by associating a two-dimensional, optically readable pattern and an identification code being paired in a one-to-one correspondence by means of a predetermined algorithm (col.1, lines 6-11). The said two-dimensional representation is then provided on the object to be identified (col. 2, lines 31-34) (i.e. creating on said object an algorithmic mark). However, Tel does not disclose the use of additional taggants in combination with the two-dimensional algorithmic marks.

Butland et al. '657 discloses a method for labeling an object for its identification by using a biological marker labeled with an agent that emits selected detectable wavelengths of energy when exposed to infrared radiation (IR) (col. 2, lines 16-22) (regarding claim 2). The biologic marker could be a DNA fragment (col. 2, lines 41-43), which is analogous to a biological marker/taggant formed from DNA bases (as per claim 3). Furthermore for claim 4, the agent can be an up-converting phosphor, a lanthanide ion, or other chemical that emits

selected detectable wavelengths of energy when exposed to infrared radiation (i.e. an optical taggant) (col. 2, lines 25-29).

For countering product diversion, it is common practice to combine visible and invisible (to the naked eye) marks to prevent counterfeiting, according to Butland (US 5,599,578). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention to combine common identification techniques such as the visible two-dimensional analog mark with the invisible biological and/or optical taggants to create a more complex identification method.

Response to Arguments

4. Applicant's arguments filed on November 13, 2007 have been fully considered but they are not persuasive.

The applicant emphasizes that the lines of an algorithmic mark are themselves a taggant. Regarding the previous office action, Tel ('002) disclosed a method for identifying one or more objects by generating a two-dimensional, optically readable pattern and an identification code. The two-dimensional pattern could conceivably be a collection of lines that serve as a multi-modal mark.

Furthermore, the applicant argues that the algorithmic mark is simultaneously protected by the overcoating, as well as associated with another taggant system. Butland ('314) teaches a method of labeling an object using pit and land/fall technology. Butland discloses that the pits and falls information is protected by an overcoat that may contain a biologic marker that emits selected detectable wavelengths of energy when exposed to infrared radiation.

Combinations of IR and UV agents may be used additionally, thus making a dual mark on an object.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., two or more identification techniques) are not recited in the rejected claim. Claim 1 clearly indicates the use of **one** or more of Ramen spectral material, a biologic taggant, an optical taggant, or a spectral quantum dot. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis P. Smith whose telephone number is (571) 270-3717. The examiner can normally be reached on Monday through Friday 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mikhail Kornakov can be reached on (571)272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FPS

/Michael Kornakov/
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